



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

September 24, 2015

Memorandum for: Deputy Commissioner Trials

Re: Detective William Fisher
Tax Registry No. 893046
114 Precinct
Disciplinary Case Nos. 2012-8660 & 2013-9982

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on April 22, 2015 and was charged with the following:

DISCIPLINARY CASE NO. 2012-8660

1. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about December 7, 2012, was discourteous in that said officer addressed New York City Police Lieutenant Joyce Williams, Tax # 915020 using profane language.
PG 203-03, Page 1, Paragraph 2

**PUBLIC CONTACT - GENERAL
GENERAL REGULATIONS**

2. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about December 7, 2012, having been given a lawful order by New York City Police Lieutenant Joyce Williams, Tax # 915020, did wrongfully and without just cause fail to immediately comply with said lawful order.

PG 203-03, Page 1, Paragraph 2
PG 203-05, Page 1, Paragraph 1

**COMPLIANCE WITH ORDERS
PERFORMANCE ON DUTY**

DISCIPLINARY CASE NO. 2013-9982

1. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about February 27, 2013, having been given a lawful order by New York City Police Lieutenant Hassiem J. Michel, Tax # 906829, did wrongfully and without just cause refuse to comply with said lawful order.

PG 203-03, Page 1, Paragraph 2
PG 203-05, Page 1, Paragraph 1

**COMPLIANCE WITH ORDERS
PERFORMANCE ON DUTY**

2. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about February 27, 2013, was discourteous in that said officer addressed New York City Police Lieutenant Hassiem J. Michel, Tax # 906829 using profane language.

PG 203-09, Page 1, Paragraph 2

**PUBLIC CONTACT - GENERAL
GENERAL REGULATIONS**

3. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about December 19, 2012 and through April 23, 2013, did fail to maintain a current New York State Driver's license as required.

PG 203-03, Page 1, Paragraph 5

COMPLIANCE WITH ORDERS

In a Memorandum dated June 18, 2015, Assistant Deputy Commissioner Nancy R. Ryan found Detective William Fisher Not Guilty of Specification No. 1, and Guilty of Specification No. 2, in Disciplinary Case No. 2012-8660, and Dismissed Specification No. 1, found Detective Fisher Guilty of Specification No. 3, as pleaded, and Guilty of Specification No. 2 in Disciplinary Case No. 2013-9982. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues in the various acts of misconduct for which Detective Fisher has been found Guilty and deem that a period of monitoring is warranted. Therefore, Detective Fisher's disciplinary penalty shall consist of the forfeiture of twenty (20) vacation days and the imposition of one (1) year dismissal probation.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

June 18, 2015

MEMORANDUM FOR: Police Commissioner

Re: Detective William Fisher
Tax Registry No. 893046
114 Precinct
Disciplinary Case Nos. 2012-8660 & 2013-9982

The above-named member of the Department appeared before the Court on April 22, 2015, charged with the following:

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P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT-GENERAL
GENERAL REGULATIONS

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P.G. 203-03, Page 1, Paragraph 2 - COMPLIANCE WITH ORDERS
P.G. 203-05, Page 1, Paragraph 1 - PERFORMANCE ON DUTY

Disciplinary Case No. 2013-9982

1. Said Detective William Fisher, while assigned to the 49th Precinct Detective Squad, on or about February 27, 2013, having been given a lawful order by New York City Police Lieutenant Hassiem J. Michel, Tax # 906829, did wrongfully and without just cause refuse to comply with said lawful order.

P.G. 203-03, Page 1, Paragraph 2 - COMPLIANCE WITH ORDERS

P.G. 203-05, Page 1, Paragraph 1 - PERFORMANCE ON DUTY

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**P.G. 203-09, Page 1, Paragraph 2 - PUBLIC CONTACT-GENERAL
GENERAL REGULATIONS**

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P.G. 203-03 Page 1 Paragraph 5 - COMPLIANCE WITH ORDERS

The Department was represented by Jessica Brenes, Esq., Department Advocate's Office, and Respondent was represented by James Moschella, Esq. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Specification 1 of Disciplinary Case 9982-2013 was dismissed upon motion of the Assistant Department Advocate. Respondent, through his counsel, entered a plea of Guilty to Specification 3 of Disciplinary Case 9982-2013 and Not Guilty to the remainder of the charges. I find the Respondent Not Guilty of Specification 1 and Guilty of Specification 2 of Disciplinary Case No. 8660/12 and Guilty of Specification 2 of Disciplinary Case No. 9982-2013.

FINDINGS AND ANALYSIS

With respect to Specifications 1 and 2 of Disciplinary Case No. 8660-2012, it is undisputed that on December 7, 2012, Respondent was working in the 49th Precinct Detective Squad at approximately 11:37 PM when Lieutenant Joyce Williams, the Integrity

Control Officer for Detective Borough Bronx, made an unannounced visit to the 49th Precinct Detective Squad. At the time Lieutenant Williams entered the squad room, Respondent, Detective Popowich and Police Officer Cintron were present. Respondent was on the phone. Detective Popowich and Police Officer Cintron gave Lieutenant Williams their memo books, which she signed.

Lieutenant Williams testified that she then stood waiting about 5 or 10 minutes for Respondent to acknowledge her and bring her his memo book. As she was waiting, she said she heard Respondent switch from speaking English to Spanish and say to the person he was on the phone with that, "the idiot is here, my boss." Respondent was not looking at Lieutenant Williams when he said the phrase in Spanish. (Tr. p. 29). Lieutenant Williams is not fluent, but stated that she understood a little bit of Spanish. (Tr. p. 51). After she heard this comment, Lieutenant Williams walked up to Respondent and told him to get off the phone. When he did not immediately comply, she repeated her direction to Respondent to get off the phone. (Tr. p. 52). She testified that Respondent said, "How dare you tell me to get off the phone. I'm on a personal phone call." When he did not get off the phone, she asked him if he was refusing a lawful order and at that point he hung up. It was a matter of seconds between her statements to Respondent. (Tr. p. 53). She then told him to go out into the hallway with her, which he did. At that time, Respondent was calm. (Tr. pp. 31-32).

Lieutenant Williams testified that as she was leaving the hallway area, from about 20 feet away, she heard Respondent inside the squad room screaming, "Who the -- I don't curse -- F-U-C-K does she think she is. She has some set of balls on her. I've been on this job for 20 years. I have never met so many incompetent idiots." (Tr. p. 32). Lieutenant

Williams, on cross-examination, stated that Respondent was not talking directly to her when he made these statements. (Tr. p. 58). Respondent denied saying any of these things. (Tr. p. 148). He testified that the only thing he said, which was to himself, was that, "after 25 years, I can't believe I am going through this." (Tr. p. 149). Neither Detective Popowich (Tr. p. 106), nor Police Officer Cintron (Tr. pp. 123-124), who could both see Respondent as he initially returned to the squad room from the hallway, could corroborate that Respondent said the words Lieutenant Williams described.

Respondent in his testimony admitted that he saw Lieutenant Williams walk into the squad room while he was on his cell phone speaking to his wife about a problem with their daughter. He says he was having trouble getting his wife off the phone so he said to his wife in Spanish, "stupid, idiot, la jefa tena aqui. The boss is here." (Tr. p. 141). Respondent's version of events is that after he heard Lieutenant Williams yell at him to get off the phone, he was trying to explain to her that he was on the phone with his wife about an incident that happened at home. Respondent testified as follows:

I said, Lieu, are you talking to me? I didn't believe she would actually be yelling at me because I didn't know what was going on. And she goes, get off your phone and get outside the office. I said, Lieu, I am on a phone call, I am on a personal call. Do you know who I am talking to? Lieu, when I'm done with my wife, we will go outside. I said, is there an emergency? Because if a cop got shot, I will be the first one outside this office doing my job. She goes, are you refusing a lawful order? I said, Lieu, with all due respect, it's not a lawful order. I went to the phone, I said, hon, I have to call you back. Now my wife is screaming at me as to who is yelling at me. I said I will call you back. I hung up the phone on her. I said, Lieu, let's go outside. We go outside to the hallway. (Tr. pp. 144-45).

I find that Respondent is Not Guilty of Specification 1 of Disciplinary Case No. 8660-2012. There was no testimony that Respondent addressed Lieutenant Williams using profane language. Even under Lieutenant William's version of events, Respondent was not

directly addressing her when she heard the comments. Also, even if the words as described by the Lieutenant were said by Respondent, he had returned to the squad room at the time and could not even have been sure that the Lieutenant was still in the building, no less in hearing range. Most importantly, there was no corroboration of her testimony that Respondent used curse words in the squad room while she was in the hallway.

I find Respondent is Guilty of Specification 2 of Disciplinary Case No. 8660-2012. Respondent admits that while he was on duty, he was ordered off a personal phone call by his supervisor and instead of complying with that order, he refused to immediately get off his personal phone call. He admits he told the supervisor he would do what she said only when he was done with his personal business. He also essentially engaged in a debate about the order by asking the supervisor if there was an emergency and then telling the supervisor it was not a lawful order. This constitutes failure to comply with a supervisor's lawful order to cease personal business immediately.

With regard to Specification 2 of Disciplinary Case 9982-2013, it is undisputed that on February 27, 2013, while Respondent was on duty in the 49th Precinct Detective Squad, he had a conversation with his Commanding Officer Lieutenant Hassiem Michel. The conversation took place in Lieutenant Michel's office. No one else was present. It is disputed as to whether the door was open or closed. During the conversation, Lieutenant Michel told Respondent to remove a second computer monitor he had on his desk. Respondent questioned the Lieutenant as to the reasons for this and explained why he needed it. Lieutenant Michel testified that during the conversation, the Respondent got upset and used "expletives", not directed at the Lieutenant, but rather in the context of the

conversation. When asked on direct examination what expletives Respondent used,

Lieutenant Michel testified as follows:

At some point he said I'm a grown ass man with kids. This is a hostile environment. You're being -- I'm being treated unfairly. And at some point he pointed towards the captain's office, which was just past mine, and said -- I'm getting bad looks at the same time pointing at the captain's office. Again, just reiterated that and he subsequently eventually said to me, um, you know that interim evaluation that you guys gave me, you guys can take it and wipe your asses with it. (Tr. p. 67).

Lieutenant Michel testified that he believed the "guys" Respondent was referring to were himself, Sergeant Theanthong who actually wrote the evaluation, and the executive staff. (Tr. pp. 67-68).

On cross examination, Lieutenant Michel was asked about the expletives again.

Q. But to be clear, you don't believe he was cursing at you, do you?

A. No.

Q. These expletives that he used were in the context of him expressing his frustration?

A. Correct. (Tr. p. 84).

While the Respondent might not have been directing expletives at the Lieutenant, his comment that "you guys" can "wipe your asses" with the evaluation does constitute being discourteous and addressing Lieutenant Michel with profanity. The Department has met its burden in proving specification 2 of disciplinary Case No. 2013-9982.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 28, 1987. Information from his personnel file that

was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been employed by the Department for twenty-seven years. During those years he has made almost 1,000 arrests and has been awarded 96 Department medals for Excellent Police Duty. The two substantiated specifications for insubordination and discourtesy to Lieutenants took place over the relatively limited period of less than three months out of this lengthy career. The Lieutenant involved in Disciplinary Case No. 2013-9982 testified that he had been Respondent's supervisor both in squad room and field settings for about a year and a half before the incident and that he had no prior problems with the Respondent pertaining to disrespect or discourtesy. (Tr. p. 80). Lieutenant Williams, who had been the Integrity Officer visiting the 49th Squad for about two and a half years prior December 7, 2012, also testified that she had interacted with Respondent before, and that he had not been discourteous to her. (Tr. p. 41).

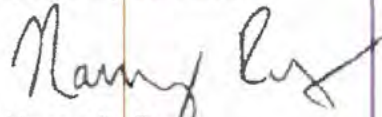
Respondent also pled guilty to failing to maintain his NYS driver's license, which is a serious charge in that members of the service are required to maintain a driver's license as a condition of their employment. (Patrol Guide 203-03). He has now been found guilty of failing to comply with a supervisor's order to get off a personal phone call and being discourteous to a Lieutenant. The Department has asked for a penalty of 30 vacation days and one year dismissal probation. Given Respondent's exemplary record such a severe penalty seems unwarranted.

In *Disciplinary Case No. 76206/00* (Feb. 24, 2001), a seven-year member with no prior disciplinary record forfeited ten vacation days for failing to maintain a valid driver's license. In *Disciplinary Case No. 2013-10623* (Jun. 27, 2014), a ten-year police officer

with no disciplinary record forfeited ten vacation days for failing to maintain a current driver's license and registering his vehicle in the wrong county. *In Disciplinary Case No. 83549/07* (Dec. 4, 2008), a 24-year member with no prior disciplinary record forfeited ten vacation days for, while off duty, questioning the authority of on-duty officers and rudely turning his back and speaking on his cell phone while a supervisor was attempting to question him about an incident.

Based on the foregoing, it is recommended that Respondent forfeit 20 vacation days.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner - Trials



**POLICE DEPARTMENT
CITY OF NEW YORK**

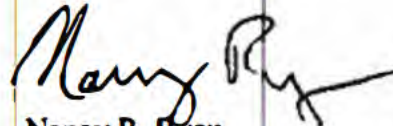
From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE WILLIAM FISHER
TAX REGISTRY NO. 893046
DISCIPLINARY CASE NOS. 2012-8660 & 2013-9982

Respondent was appointed to the Department on January 1, 1987. His last three annual performance evaluations were as follows: he received [REDACTED]

[REDACTED] He has 96 medals for Excellent Police Duty, 22 medals for Meritorious Police Duty, and 2 Commendations.

On May 7, 2014, he was placed on Level II Discipline Monitoring as a result of this case. He has no other formal disciplinary record.

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner Trials